## REMARKS

This Amendment is in response to the Office Action mailed July 15, 2008.

Claims 1-175 stand variously rejected as being anticipated by Vyakarnam et al. or unpatentable over a combination of Vyakarnam and Pfeil et al, Gordon, Meade et al., and/or Chvapil, Dean, Jr. et al. Reconsideration and withdrawal of these rejections are respectfully requested.

As the Examiner will note, each of the independent claims recites "at least one of the first and second portions defining a closed internal reservoir configured to contain at least one of a dye, a pigment and a therapeutic agent". Neither the Vyakarnam reference nor the applied combinations teach or suggest an implant as claimed, wherein the first and/or second portions define a closed internal reservoir configured to contain a dye, a pigment and/or a therapeutic agent, as claimed herein.

Vyakarnam et al. specifically teach that it is their foam that is formed with the therapeutic agent already present therein or the therapeutic agent is loaded into the foam after the foam is formed.

See, for example, claim 18 of Vyakarnam et al:

> **18. The biocompatible gradient foam of claim 1 wherein also present in the biocompatible gradient foam is a therapeutic agent.**

Col. 17, lines 54-60 (cited in the outstanding Office Action):

> **In another embodiment of the present invention, the polymers and blends that are used to form the foam can contain therapeutic agents. To form these foams, the previously described polymer would be mixed with a**

**therapeutic agent prior to forming the foam or loaded into the foam after it is formed.**

Further details on how Vyakarnam et al. contemplate loading their form with therapeutic agent may be found at Col. 18, lines 13-18:

> **Foams containing bio-active materials may be formulated by mixing one or more therapeutic agents with the polymer used to make the foam or with the solvent or with the polymer-solvent mixture and foamed. Alternatively, a therapeutic agent could be coated on to the foam preferably with a pharmaceutically acceptable carrier.**

In each of these cases, the therapeutic agent (or dye, etc.) is loaded within the pores of the foam or mixed into the polymers and blends that are them foamed, and not disposed in a closed internal reservoir formed in the first and/or second portions, as claimed herein and as shown herein below at 1512:

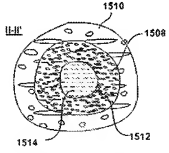


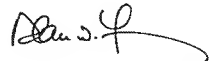

*FIG. 15C*

None of the secondary references teach or suggest such a closed internal reservoir in a post-biopsy cavity treatment implant. Therefore, reconsideration and withdrawal of the 35 USC §§102(b) and 103(a) references are respectfully requested.

In view of the above, Applicants believe that this application is now in condition for allowance. If any unresolved issues remain, please contact the undersigned attorney of record at the

telephone number indicated below and whatever is necessary to resolve such issues will be done at once.

Respectfully submitted,



Date: January 13, 2009 By: _____

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